

**EXHIBIT K**



**CONNOLLY BOVE LODGE & HUTZ LLP**

ATTORNEYS AT LAW

Scott E. Swenson  
TEL (302) 252-4233  
FAX (302) 658-6246  
EMAIL [sswenson@cblh.com](mailto:sswenson@cblh.com)  
REPLY To Wilmington Office

WILMINGTON, DE

The Nemours Building  
1007 North Orange St.  
P.O. Box 2207  
Wilmington, DE 19899  
TEL: (302) 658 9141  
FAX: (302) 658 5614  
WEB: [www.cblh.com](http://www.cblh.com)

August 4, 2008

**VIA FACSIMILE AND U.S. Mail**

Dover Police Department  
400 South Queen Street  
Turner Building  
Dover, Delaware 19904

Re: **Curry v. Hopkins (C.A. 1:04-CV-00175-JJF)**

To Whom It May Concern:

My firm represents Joseph Curry in the above-referenced litigation, currently pending in the United State District Court for the District of Delaware. The case stems from the January 13, 2004 arrest of Mr. Curry by Officer Gregory Hopkins. You have been served with a *subpoena duces tecum* and *subpoena ad testificandum* that commands the production of copies of documents and electronically stored information in your possession, custody and control and your attendance at a deposition. The date and place for the document production and deposition is indicated on the face of the subpoena.

Regarding the deposition, pursuant to *Fed. R. Civ. P.* 30(b)(6), one or more individuals must be designated to testify on behalf of the Dover Police Department. You may set forth, for each person designated, the matters on which the person will testify. The deposition will be taken before a Notary Public or some other officer authorized to administer an oath at the time and place indicated on the face of the subpoena. Testimony will be recorded by stenographic means.

We appreciate that it is never convenient to receive a subpoena. We will, within reason and the limits set by the Court, consider an extension of time in producing documents. If you have any questions, please do not hesitate to contact me, or Daniel Griffith, Esq., who has agreed to accept service of this subpoena on your behalf.

Sincerely,

Scott E. Swenson

cc: Brian R. Lemon, Esquire  
Daniel A. Griffith, Esquire  
Mr. Joseph Curry

Issued by the  
**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF DELAWARE**  
**SUBPOENA IN A CIVIL CASE**

**JOSEPH LAWRENCE CURRY**

**Plaintiff,**

**v.**

**CASE NUMBER: 04-175 JJF**

**GREGORY HOPKINS**

**Defendant.**

TO: Dover Police Department  
400 South Queen Street  
Turner Building  
Dover, Delaware 19904

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. See attached Schedules "A" through "D"

PLACE OF DEPOSITION

DATE AND TIME

Law Offices of Connolly Bove Lodge & Hutz LLP  
Nemours Building, 1007 North Orange Street  
9th Floor  
Wilmington, DE 19899

August 15, 2008  
9:30 a.m.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date and time specified below (list documents or objects):

See attached Schedules "A" through "C"

PLACE

DATE AND TIME

Law Offices of Connolly Bove Lodge & Hutz LLP  
Nemours Building, 1007 North Orange Street  
Wilmington, DE 19899  
Attn: Brian R. Lemon, Esq.

August 12, 2008

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

Attorney for Plaintiff

August 4, 2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Scott E. Swenson, Esquire

CONNOLLY BOVE LODGE & HUTZ LLP

Nemours Building, 1007 North Orange Street, Wilmington, DE 19899

(302) 658-9141

**PROOF OF SERVICE**

DATE	PLACE
<b>SERVED</b>	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of American that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible items, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises – or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend

trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or items not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

**SCHEDULE A**  
**DEFINITIONS AND EXPLANATIONS**

The following Definitions and Explanations apply to these Requests and the form and scope in which they must be answered.

COMMUNICATION means any form of oral or written exchange, whether in person, by telephone, by facsimile, by telex, by electronic mail (*e.g.*, "e-mail") or by any other medium; also any related DOCUMENT, whether or not such DOCUMENT or the information contained therein was transmitted by its author or by any other PERSON.

DEFENDANT as used herein means Gregory Hopkins.

DOCUMENT as used herein in the most comprehensive and inclusive sense permitted by Rule 34 of the Federal Rules of Civil Procedure and therefore includes, but is not limited to, all forms of recorded information in YOUR actual or constructive possession, custody, or control whether handwritten, typed, printed, or recorded or stored on computer or personal data storage devices, diskettes, videotapes, audio tape, or photographic film. Pursuant to the Federal Rules and as used herein, the term document includes any drafts or versions thereof, and all copies on which any mark, alteration, writing, attachment or any other change from the original appears. Any copy of a document containing thereon or having attached thereto any alterations, notes, comments or other material which is not included in the original or other copies of such document shall be deemed a separate document. Pursuant to the Federal Rules and as used herein, the term document includes, by way of example and not by way of limitation: (a) letters, correspondence, memoranda, e-mail (current, deleted, and archived) and other electronic communications, voice mail recordings, facsimile or telefax transmissions, telex, telegrams, and any other intra-company and inter-company communications; (b) minutes, transcripts, notes or records of meetings, conferences, telephone

conversations, and interviews, including lists of PERSONS attending the meetings or conferences; (c) calendars, date books, personal data assistants ("PDA") (e.g., Palm, Blackberry, Treo), logs, logbooks, diaries; (d) data, test results, laboratory notebooks, engineering or other notebooks, work papers, notes compilations, tabulations, software, source code, object code; (e) blue prints, drawings, sketches, schematics, specifications, diagrams, photographs, maps, charts, graphs; (f) user manuals, policy manuals, guidelines, handbooks, machinery, manuals, directions, instruction books; (g) sales and promotional literature, brochures, press releases, advertisements, pamphlets; (h) reports, studies, analyses, projections, strategic plans, presentations, books, booklets, texts; (i) forms, legal pleadings or filings, deposition transcripts; (j) ledgers, accounting records, sales and financial information; (k) archived records and expired files; and (l) any retrievable word processor files, e-mail, spreadsheet, presentation or other compilation of information stored on a personal computer, a server or any other storage media.

ELECTRONICALLY STORED INFORMATION ("ESI") as used herein means all data recorded or stored on computer or other data storage devices such as network storage devices, personal data assistants ("PDA" e.g., Palm, Blackberry, Treo), diskettes, videotapes and audio tapes. This includes, by way of example and not limitation, CAD and similar drawings, digital photographs, e-mail (and attachments), metadata, object code, presentations, software, source code, spreadsheets, voice mail, word processor files and other electronically stored compilations. All versions and drafts are to be produced as separate items.

PERSON as used herein means individual or legal entity, including, but not limited to, companies, corporations, professional corporations, proprietorships, firms, partnerships, associations, joint ventures, trusts, estates, receivers, and institutions and government entities, including, but not



limited to, federal, state and local governments and all subdivisions, departments, bodies, agencies, authorities, or corporations thereof.

PLAINTIFF as used herein means Joseph Curry.

RELATING or RELATING TO as used herein means constituting, containing, concerning, embodying, reflecting, including, describing, analyzing, identifying, stating, referring to, dealing with, or in any way pertaining to.

YOU, YOUR and YOURS as used herein is synonymous with the Dover Police Department.

Miscellaneous: The singular includes the plural; the plural includes the singular; the masculine gender includes the feminine and neuter gender; the neuter gender includes the masculine and feminine genders. "And" means and/or. "Or" means and/or.

All terms not defined above should be given their ordinary meaning.

Under no circumstances are YOU to presume that the Plaintiff possesses a DOCUMENT or item being requested. Further, under no circumstance are YOU to refuse to provide any DOCUMENT or item merely because YOU consider it duplicative.

**SCHEDULE B**  
**INSTRUCTIONS**

In addition to the Federal Rules of Civil Procedure, the laws of this Circuit and the applicable Local Rules of Civil Practice and Procedure, please respond to this subpoena in accordance with the following instructions:

Unless otherwise agreed in writing, all electronic data responsive to these requests are to be translated as necessary into usable form. For all data compilations responsive to these requests, produce an exact duplicate of such data on a computer disk that can be read by a common spreadsheet program, as well as a hard-copy version of such data. In addition, provide a detailed description of how the data is stored, including the format in which it was saved, the name of each field, and the number of records.

Claims of Privilege and Exception to Discovery: If any document or item responsive to this subpoena is withheld based on any claim of privilege or other exception, identify the document or item withheld and generally describe the subject matter included in the document, state the nature of the justification for the privilege or exception being relied upon and identify all persons or entities who have or have had access to said document or item.



**SCHEDULE C**  
**SPECIFIC REQUESTS**

**REQUEST NO. 1:** All documents, items, and ESI relating to audio and video equipment used in Dover Police vehicles in January of 2004.

**REQUEST NO. 2:** All documents, items, and ESI relating to which Dover Police vehicles had audio and video equipment installed as of January of 2004.

**REQUEST NO. 3:** All documents, items, and ESI relating to the identities of Dover Police officers who were issued, or who otherwise used in the course of their patrol duties, audio and video equipment as of January of 2004.

**REQUEST NO. 4:** All documents, items, and ESI relating to the field use of audio and video equipment by Dover Police officers as of January of 2004.

**REQUEST NO. 5:** All documents, items, and ESI relating to any use of force policy, including the use of a K-9, employed by the Dover Police Department in January of 2004.

**REQUEST NO. 6:** All documents, items, and ESI relating to the identities of Dover Police officers who received any measure of training for the use of a K-9, or who otherwise utilized a K-9, as of January of 2004.

**SCHEDULE D**  
**Deposition Categories**

**CATEGORY NO. 1:** The use, operation and maintenance of audio and/or visual recording equipment installed in Dover Police vehicles as of January of 2004, including any microphones used in connection with the installed equipment.

**CATEGORY NO. 2:** The identities of Dover Police officers who were issued or who otherwise utilized audio and/or visual recording equipment as of January of 2004, the nature of such equipment, and the actual utilization of such equipment.

**CATEGORY NO. 3:** The chain of custody and storage of all audio and visual recordings taken by Dover Police vehicles in connection with the arrest of Mr. Curry in January of 2004.

**CATEGORY NO. 4:** All policies regarding the use of force, including the use of a K-9, employed by the Dover Police Department in January of 2004.